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FEDERAL COMMUNICATIONS COMMISSION
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FEDERAL COMMUNICATIONS COMMISSION
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In the Matter of)
Administration of the North) CC Docket No. 92-237
American Numbering Plan)

COMMENTS OF COX ENTERPRISES, INC.

Cox Enterprises, Inc. ("Cox"), by its attorneys, hereby files its response to Petitions for Clarification and/or Reconsideration filed in the above-referenced docket by the Pennsylvania Public Utility Commission ("PaPUC") and the National Association of Regulatory Utility Commissioners ("NARUC"). Cox submits these comments to ensure that the Federal Communications Commission's (the "Commission") efforts to establish a uniform framework for the management of numbering resources are not undermined by needless jurisdictional disputes between the states and the Commission. Specifically, Cox requests that the Commission make plain its primary jurisdiction over numbering resources and clarify that traditional state concerns regarding the implementation of numbering policies will be considered by the Commission. In the event of actual conflict, however, the Commission must clarify that its numbering determinations are preeminent.

BACKGROUND

On July 13, 1995, the Commission established the North American Numbering Council ("NANC") and provided for the appointment of a new North American Numbering Plan Administrator ("NANP Administrator") to assume the numbering functions

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traditionally performed by the Local Exchange Carriers ("LECs") and their representatives.^{1/} Pursuant to the new regulatory model, the NANC will make recommendations to the Commission regarding the management of numbering resources, develop national numbering policies, resolve in the first instance disputes over number assignments and guide the NANP Administrator in processing applications and maintaining administrative databases. The new framework was adopted in response to the widely recognized concern that future numbering administration and policy development should reside in a body wholly independent from a particular industry segment and accountable directly to the FCC.

In light of the impending transfer of numbering authority from Bellcore and the LECs to the NANC and the new NANP Administrator, the PaPUC and NARUC (jointly the "Petitioners") seek clarification of the states' continued ability to oversee numbering assignments and the implementation of policies within their boundaries. Specifically, the Petitioners seek confirmation that the new regulatory scheme will not interfere with the states' "oversight" responsibilities as they relate to such matters as NPA exhaust and CO code administration.^{2/}

1/ See Report and Order, Administration of the North American Numbering Plan, CC Docket No. 92-237 (adopted and released July 13, 1995) (hereafter "Order").

2/ See Petition for Clarification of PaPUC at 3 ("PaPUC seeks clarification that while the Commission intends to transfer traditional LEC functions associated with CO Code assignment and NPA exhaust to the new NANP Administrator, it does not intend at the same time to usurp the traditional rule of the States in overseeing and approving those changes and otherwise ensuring
(continued...)

STATE OVERSIGHT OVER NUMBERING ADMINISTRATION

Cox commends the Commission for adopting a regulatory structure that will foster a fair, efficient and integrated approach to the administration of numbering resources. Cox believes, however, that the Commission must make plain its intent to utilize the NANC as the principal oversight committee for the development of Commission-directed national numbering policies. The Commission must clarify that it retains primary jurisdiction over the assignment of numbering resources and will ensure that state numbering actions are not inconsistent with Commission-established policy and do not impede the achievement of federal numbering objectives.

The Communications Act creates a dual regulatory structure for interstate and intrastate wire and radio communications. The Act confers upon the Commission jurisdiction over "all interstate and foreign communications by wire or radio ... which originates and/or is received within the United States" 47 U.S.C § 152(a). States retain jurisdiction over "charges, classifications, practices, services, facilities or regulations for or in connection with intrastate communications service by wire or radio of any carrier." 47 U.S.C. §152(b). Accordingly, although states can be expected to exercise some

2/ (...continued)
that local needs and concerns surrounding such numbering changes are met."); Petition for Clarification of NARUC at 5 ("NARUC ... requests that the FCC clarify that the ... Report and Order was not intended to displace States' traditional oversight over CO code assignment issues.").

level of authority over the assignment of numbering resources, to the extent the assignment affects intrastate communications, the Commission must set national guidelines pursuant to which states may set intrastate policies.^{3/}

The language of the Commission's Order does not contradict the cooperative sharing of numbering responsibilities, nor does it prevent the Commission from encouraging states to participate in the development of numbering policies and the administration of the NANP. Indeed, the Commission has explicitly recognized that states have a "role and certain interests in the regulation of numbering resources" and that the Commission need not preempt states to take action in respect to numbering.^{4/} Nevertheless, where state policies and procedures directly interfere with the achievement of federal numbering objectives, state regulation of numbering must be displaced.

The Commission recently recognized the potential for divergence among federal and state numbering policies in the

3/ The Commission has previously recognized that numbering and numbering assignments are an indispensable part of interstate service and that it would be practically impossible to separate one set of NXX codes for intrastate calls and one set for interstate calls. See generally Declaratory Ruling, The Need to Promote Competition and Efficient Use of Spectrum for Radio Common Carrier Services, 2 FCC Rcd 2910, 2912 (1987). Primary jurisdiction over numbering resources, therefore, inures to the Commission. See Declaratory Ruling and Order, Proposed 708 Relief Plan and 630 Numbering Plan Area Code by Ameritech - Illinois, IAD File No. 94-102 at ¶¶ 10-14 (adopted January 12, 1995. released January 23, 1995).

4/ See Order at ¶ 77. Significantly, NANC membership will consist of a wide range of industry representatives, including members representing state interests such as NARUC and state public utility commissions. See Order at ¶ 47.

context of the number portability rulemaking proceeding. In its Notice of Proposed Rulemaking, the Commission confirmed that state number portability requirements cannot be permitted to thwart or impede national policies.^{5/} Thus, the Commission specifically solicited comment on areas where state and federal number portability approaches may diverge over time. In response to PaPUC and NARUC's filings, the Commission should likewise clarify that state involvement in numbering issues, even in regard to the states' traditional roles, is subject to federal policy and administrative determinations.

CONCLUSION

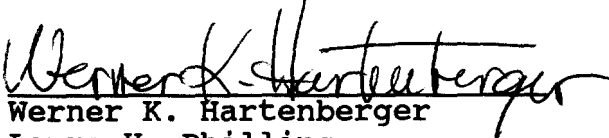
The public will benefit from uniform, nationwide numbering policies that are implemented in a fair and non-discriminatory manner. Accordingly, the Commission should clarify that state regulation that leads to inconsistent decisions, imposes disparate obligations on similarly-situated

^{5/} See Notice of Proposed Rulemaking, Telephone Number Portability, CC Docket No. 95-116, RM 8535 at ¶ 32 (released and adopted July 13, 1995).

service providers, or creates unnecessary delay or other inefficiencies in the assignment process will be displaced.

Respectfully submitted,

COX ENTERPRISES, INC.


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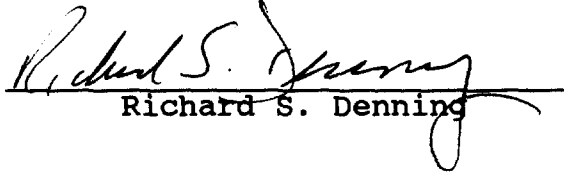
September 27, 1995

CERTIFICATE OF SERVICE

I, Richard S. Denning, hereby certify that on this 27th day of September, 1995, I caused a copy of the foregoing Comments of Cox Enterprises, Inc. to be served by first-class mail, postage prepaid, to the following:

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